

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Dwight Xavier Jones,) C/A No. 5:11-754-RBH-KDW
Plaintiff,)
vs.)
Melody James, Cayce Magistrate Court Judge; PSO)
Bradoc; Cayce Public Safety; Major Quig, Lexington)
County Detention Center; Captain O'Neil, Lexington)
County Detention Center; Patsy McDaniel, Lexington)
County Detention Center,)
Defendants.)

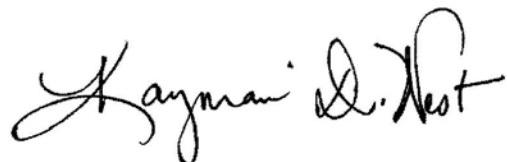
) ORDER

This is a 42 U.S.C. §1983 civil rights complaint. This Court has previously directed that the Complaint be served on all Defendants, excluding Defendants Melody James and Cayce Public Safety; however, the attempted service upon Defendant Patsy McDaniel at Lexington County Detention Center (“LCDC”), 521 Gibson Rd, Lexington, SC 29072, by the United States Marshal’s Service was returned because Ms. McDaniel is no longer employed at LCDC.

Plaintiff’s attention is directed to Rule 4(m) of the Federal Rules of Civil Procedure, which provides that unless a particular defendant is served within 120 days after the complaint is filed, this court must dismiss an action without prejudice as to that particular defendant. Case law interpreting Rule 4(m) or its predecessor has uniformly held that dismissal is mandatory unless good cause is shown if a Defendant is not served within 120 days. *See, e.g., Epstein v. White*, No. 90 C 4641, 1991 WL 214152 (N.D. Ill. Oct. 18, 1991); *cf. McMasters v. U. S.*, 260 F.3d 814 (7th Cir. 2001); *Mid-Continent Wood Prods., Inc. v. Harris*, 936 F.2d 297 (7th Cir. 1991). However, the court may order that service be made within a specified time. *See Rule 4(m), Fed. R. Civ. P.*

Accordingly, Plaintiff is hereby directed to provide to the Clerk of Court, within twenty (20) days of the date of this Order, an updated service form with a correct address for Defendant McDaniel should he desire to attempt service upon the named Defendant again. A blank summons form and a USM-285 form are attached to this Order for Plaintiff's use.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Kaymani D. West".

July 16, 2012

Kaymani D. West

Florence, South Carolina

United States Magistrate Judge